

Message Text

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ACTION ARA-20

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TAGS: EFIN, BR

SUBJECT: CENTRAL BANK INTERVENTION IN HALLES GROUP AND
ITS IMPACT ON FOREIGN LENDERS: A CLARIFICATION

REF: BRASILIA 3625

1. SUMMARY: WE HAVE OBTAINED CLARIFICATION FROM THE CENTRAL BANK REGARDING THE HANDLING OF HALLES GROUP FOREIGN LOANS. BANK'S POSITION DIFFERS CONSIDERABLY FROM INTERPRETATION PROVIDED BY AMERICAN BANKERS AS CONVEYED REFTEL. BANK OFFICIAL STRESSED FACT THAT CENTRAL BANK GIVING LIBERAL READING TO GOVERNING LEGISLATION WHICH PERMITS FOREIGN CREDITORS TO COLLECT MATURING CLAIMS DURING PERIOD OF INTERVENTION. PRIVATE BANKERS MAINTAIN THAT CENTRAL BANK CHANGED RULES IN MID-GAME ON RESOLUTION 63 LOANS. WHOLE CONTROVERSY WOULD BE TEMPEST IN TEAPOT WERE IT NOT FOR THE FACT THAT WITH LATEST MOVE CENTRAL BANK HAS PUT ON NOTICE FOREIGN LENDERS THAT RESOLUTION 63 LOANS ARE NOT RISK-FREE AS SOME LENDERS HAD BELIEVED. ACCORDING TO CENTRAL BANK OFFICIAL, HALLES REPASSED ALL RESOLUTION 63 LOANS AND ALL ARE THEREFORE REPAYABLE UNDER CENTRAL
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BANK POLICY. AS CONCLUDED IN REFTEL, MAIN SUFFERERS OF CENTRAL

BANK POLICY WILL BE SMALLER BRAZILIAN BANKS, AND ULTIMATELY SMALL AND MEDIUM SIZE FIRMS WHO WILL FIND IT HARDER TO GET CREDIT. END SUMMARY.

2. WE HAVE SOUGHT FURTHER CLARIFICATION FROM THE CENTRAL BANK DIRECTOR FOR EXTERNAL RELATIONS, FERNAO BRACHER, REGARDING THE HANDLING OF RESOLUTION 63 LOANS OF HALLES GROUP WHICH WAS INTERVENED BY CENTRAL BANK LAST MONTH. IT WILL BE RECALLED THAT REFTEL OUTLINED THE INTERPRETATION GIVEN BY A NUMBER OF AMERICAN BANKERS TO THE CENTRAL BANK'S POSITION WITH RESPECT TO HALLES FOREIGN LOANS. ACCORDING TO BRACHER, NEW LEGISLATION AUTHORIZING CENTRAL BANK TO INTERVENE IN FINANCIAL INSTITUTIONS REQUIRES THAT DURING PERIOD THAT INSTITUTION IS UNDER INTERVENTION MORATORIUM MUST BE DECLARED ON PAYMENT OF ALL OUTSTANDING LIABILITIES. TO GET AROUND THIS RESTRICTION AND TO PERMIT FOREIGN CREDITORS TO RECEIVE PAYMENT, BRACHER SAID CENTRAL BANK DECIDED TO APPLY LIBERAL READING TO LEGISLATION. THE BANK'S INTERPRETATION WAS THAT SINCE RESOLUTION 63 LOANS TO BRAZILIAN FINANCIAL INSTITUTION ARE REPASSED TO LOCAL BORROWERS, THAT IT IS THE ULTIMATE BORROWER THAT HAS THE OBLIGATION TO THE FOREIGN CREDITOR. THIS DECISION, HE STRESSED, GIVES FOREIGN CREDITORS PREFERENTIAL TREATMENT SINCE DOMESTIC CREDITORS, INCLUDING MOST OF THE DEPOSITORS OF ITS COMMERCIAL BANK, CANNOT COLLECT THEIR CLAIMS UNTIL THE HALLES GROUP IS EITHER SOLD OR LIQUIDATED. HE NOTED, HOWEVER, THAT THIS POLICY ALSO IMPLIES THAT IF THE ULTIMATE BORROWER CANNOT BE IDENTIFIED -- THAT IS IF RESOLUTION 63 LOANS WERE NOT REPASSED BY HALLES -- THEN FOREIGN CREDITORS WOULD HAVE TO WAIT IN LINE WITH EVERYBODY ELSE TO COLLECT THEIR CLAIMS. BRACHER STATED THAT TO HIS KNOWLEDGE ALL RESOLUTION 63 LOANS RECEIVED BY HALLES HAD BEEN REPASSED.

3. COMMENT: THE ABOVE CENTRAL BANK'S POSITION IS QUITE DIFFERENT FROM WHAT WE HAD LEARNED FROM SOME AMERICAN BANKERS AND AS CONVEYED IN REFTEL. THE CENTRAL BANK STRESSES THE FACT THAT IT IS GIVING A LIBERAL READING TO THE GOVERNING LEGISLATION IN ORDER TO ACCOMMODATE FOREIGN CREDITORS. (BRACHER NOTED IN PASSING THAT IT SEEMED TO HIM THAT MANY FOREIGN BANKERS REFUSED TO ACCEPT THE CENTRAL BANK'S EXPLANATION, PREFERRING TO BELIEVE THEIR OWN INTERPRETATION OF THE BANK'S LIMITED OFFICIAL USE

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MOVE.) THE AMERICAN BANKERS WE TALKED TO ON THE OTHER HAND, INSIST THAT THE CENTRAL BANK'S POLICY IS CONTRARY TO WHAT THEY HAD UNDERSTOOD TO BE THE BANK'S POSITION ON RESOLUTION 63 LOANS. THEY NOTE THAT THEY HAD BEEN LEAD TO BELIEVE THAT THE CENTRAL BANK WOULD ASSURE REPAYMENT OF ALL RESOLUTION 63 LOANS, AND THAT THIS BELIEF WAS REINFORCED WHEN THE BANK ANNOUNCED SHORTLY AFTER THE HALLES INTERVENTION THAT ALL FOREIGN LOANS WOULD BE PAID. WHEN THE BANK SUBSEQUENTLY CHANGED ITS POSITION

TO PERMIT HALLES TO REPAY ONLY THOSE LOANS WHOSE ULTIMATE BORROWER COULD BE IDENTIFIED, SOME FOREIGN BANKERS READ THIS AS A CHANGE OF RULES IN MID-GAME. THIS WHOLE CONTROVERSY WOULD APPEAR TO BE A TEMPEST IN A TEAPOT SINCE, ACCORDING TO BRACHER, ALL OF HALLES RESOLUTION 63 LOANS WERE REPASSED MAKING IT POSSIBLE TO IDENTIFY THE ULTIMATE BORROWER AND THUS PERMITTING THE FOREIGN LENDERS TO COLLECT. HOWEVER, BY TAKING THE STAND IT HAS, THE CENTRAL BANK HAS PUT ON NOTICE FOREIGN LENDERS THAT RESOLUTION 63 LOANS TO BRAZIL ARE NOT RISK-FREE. AS ALREADY STATED IN REFTTEL, WE EXPECT THAT MAIN CONSEQUENCE OF THIS BANK ACTION IS THAT FOREIGN LENDERS WILL HENCEFORTH BE MORE CAUTIOUS IN DEALING WITH THE SMALLER BRAZILIAN BANKS, AND, HENCE, SMALL AND MEDIUM SIZE BUSINESS WILL HAVE HARDER TIME GETTING LOANS. AS TO THE BALANCE OF PAYMENTS IMPACT OF THIS WHOLE MATTER, WE AGREE WITH BRACHER THAT IT WOULD BE MINIMAL SINCE LARGER BRAZILIAN BANKS CONTINUE TO BORROW WITHOUT DIFFICULTY RESOLUTION 63 FUNDS.

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